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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/619,424	07/19/2000	Kwang S. Kim	DESS114787	1856

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 06/20/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/619,424

Applicant(s)

Kim et al.

Examiner

Clark F. Dexter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 8, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) 1-14 and 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-22 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Jan 14, 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

1. The amendment filed January 14, 2003 and April 8, 2003 have been entered. It is noted that in view of the amendment practice under 37 CFR 1.121 which became effective for all amendments on March 1, 2001, and due to the limited amount of examining time per application, if the amendment contains changes to existing language that requires a marked-up version showing those changes, the Examiner is relying upon the marked-up version(s) for examination of the application. It is applicant's responsibility to ensure that the clean version(s) is (are) the same as the marked-up version(s). It is further noted that the clean version(s) is (are) considered to be the Official version(s).
2. New grounds of rejection have been made which were not necessitated by applicant's amendment. Accordingly, this Office action is being made **non-final**.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on January 14, 2003 have been **approved**. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

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Claim Rejections - 35 USC § 112

4. Claims 15-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, line 3, [✓]“a first side” is vague and indefinite as to what it refers (i.e., the first side of the conveyor run or the foodstuff), and it is suggested to insert --of the foodstuff portions-- after “side” or the like; in line 6, [✓]“a second foodstuff portion side” is vague and indefinite as to what it refers, and it is suggested to change it to --a second side of the foodstuff portions-- or the like.

In claim 16, line 2, “a first horizontal conveyor run portion” is vague and confusing with respect to “a first conveyor run” set forth in claim 15, and it is suggested to simply delete “first” or the like; in lines 2-3, [✓]“a second diagonal conveyor run portion” is vague and confusing with respect to “a second conveyor run” set forth in claim 15, and it is suggested to simply delete “second” or the like. ←

In claim 19, lines 1-2, [✓]“the first surface” lacks antecedent basis.

In claim 20, lines 1-2, [✓]“the second surface” lacks antecedent basis.

In claim 32, lines 3-4, [✓]“a first side thereof” is vague and indefinite as to what it refers (i.e., the first side of the belt or the foodstuff), and it is suggested to change “thereof” to --of the foodstuff portions-- or the like; in line 10, [✓]“a second side” is vague and indefinite as to what it refers, and it is suggested to insert --of the foodstuff portions-- after “side” or the like.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chenery, pn 4,246,837.

7. Claim 15 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Murphy, pn 4,423,671.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claims 16-22 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murphy, pn 4,423,671, in view of Boldrini et al., pn 6,443,160.

Regarding claim 16, Murphy lacks the second conveyor run having a horizontal conveyor run portion. However, the Examiner takes Official notice that such a conveyor configuration is old and well known in the art and provides various well known benefits including further assisting a workpiece along a conveying path to ensure continuous movement therethrough. Therefore, it would have been obvious to one having ordinary skill in the art to extend the second conveyor run of Murphy by providing a horizontal conveyor run portion for the well known benefits including that described above.

Regarding claims 18-20 and 32, Murphy lacks the second conveyor run being a vacuum conveyor wherein Murphy lacks perforations and a vacuum source. However, the Examiner takes Official notice that vacuum conveyors are old and well known in the art and provide various well known benefits including a positive gripping of the workpiece to the conveyor run during movement thereof. One example of such a vacuum conveyor is disclosed by Boldrini et al. Therefore, it would have been obvious to one having ordinary skill in the art to make the second conveyor run of Murphy a vacuum conveyor for the well known benefits including that described above.

Regarding claim 21, Murphy lacks a pressure source downstream from the vacuum source. However, the Examiner takes Official notice that pressure sources, particularly on food conveying devices are old and well known in the art and provide various well known benefits

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including removing a workpiece or remnants thereof from a conveying device. Therefore, it would have been obvious to one having ordinary skill in the art to provide a pressure source on the device of Murphy for the well known benefits including that described above.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404. The examiner's typical work schedule is Monday, Tuesday, Thursday and Friday, and he can be reached during normal business hours on these days.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Allan Shoap, can be reached at (703)308-1082.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers Technology Center 3700 are: after-final responses - (703)872-9303; other formal/official papers - (703)872-9302. The fax number for informal/draft papers - (703)305-9835.



**Clark F. Dexter
Primary Examiner
Art Unit 3724**

cf
June 16, 2003